

## HOUSE BILL NO. 681

INTRODUCED BY RASER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS ON SCHOOL DISTRICT CONSOLIDATION AND ANNEXATION; ESTABLISHING A SINGLE PROCEDURE FOR THE ANNEXATION AND CONSOLIDATION OF SCHOOL DISTRICTS; PROVIDING FOR AN INTERIM BOARD OF TRUSTEES FOLLOWING PASSAGE OF A CONSOLIDATION ELECTION; CLARIFYING THAT DISTRICTS MAY CONSOLIDATE OR ANNEX ACROSS COUNTY LINES; REQUIRING A RESOLUTION OR PETITION FOR CONSOLIDATION OR ANNEXATION TO STATE WHETHER OR NOT THE CONSOLIDATION OR ANNEXATION WILL OCCUR WITH ASSUMPTION OF BONDED INDEBTEDNESS; REQUIRING A CONSOLIDATION ELECTION TO BE HELD NO LATER THAN DECEMBER 31 PRECEDING THE SCHOOL FISCAL YEAR IN WHICH THE CONSOLIDATION IS TO BECOME EFFECTIVE; CLARIFYING THAT A CONSOLIDATION OR ANNEXATION IS EFFECTIVE JULY 1 FOLLOWING AN ELECTION; CLARIFYING THAT CONSOLIDATION OR ANNEXATION MUST OCCUR WITH CONTIGUOUS DISTRICTS; CLARIFYING THE PROCEDURE FOR DETERMINING APPROVAL OF A CONSOLIDATION OR ANNEXATION WITH THE ASSUMPTION OF BONDED INDEBTEDNESS; ALLOWING AN ABANDONED DISTRICT TO ATTACH TO A CONTIGUOUS DISTRICT IN AN ADJACENT COUNTY; ALLOWING FOR THE CONSOLIDATION AND ANNEXATION OF K-12 DISTRICTS; ALLOWING DISTRICTS TO CONSOLIDATE ACROSS COUNTY LINES WITH THE ASSUMPTION OF BONDED INDEBTEDNESS; ELIMINATING THE SPECIAL PROCEDURES FOR THE CONSOLIDATION, ABANDONMENT, AND DISSOLUTION OF JOINT DISTRICTS; ELIMINATING THE SEPARATE PROCEDURES FOR THE ANNEXATION AND CONSOLIDATION OF ELEMENTARY AND HIGH SCHOOL DISTRICTS; AMENDING SECTIONS 20-3-205, 20-3-302, 20-3-312, 20-6-209, 20-6-307, 20-6-704, AND 20-9-311, MCA; REPEALING SECTIONS 20-6-203, 20-6-204, 20-6-205, 20-6-206, 20-6-207, 20-6-208, 20-6-210, 20-6-211, 20-6-315, 20-6-316, 20-6-317, 20-6-318, 20-6-319, AND 20-6-321, MCA; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, the Public School Renewal Commission in its final report to the Education and Local Government Interim Committee recommended by consensus that the consolidation statutes be clarified to eliminate any barriers to the voluntary consolidation of school districts; and

WHEREAS, while the Education and Local Government Interim Committee fully endorsed the

1 recommendation, the timing of the Commission's report failed to provide the Committee with sufficient time to  
2 prepare and sponsor legislation for the 2005 Legislative Session; and

3 WHEREAS, while the Committee was unable to request the legislation to implement the Commission's  
4 recommendation as a committee bill, this bill has the full support of the Committee.

5  
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

7  
8 **NEW SECTION. Section 1. Conditions for district annexation.** (1) An elementary district may be  
9 annexed to a contiguous elementary district under the provisions of [section 2] when:

10 (a) a third-class district where a high school is not located is annexed to a third-class district where a  
11 high school is located, to a first-class district, or to a second-class district;

12 (b) a third-class district where a high school is located is annexed to a first-class district or to a  
13 second-class district; or

14 (c) a second-class district is annexed to a first-class district.

15 (2) A high school district may be annexed to a contiguous high school district or a K-12 school district  
16 may be annexed to a contiguous K-12 school district under the provisions of [section 2] when:

17 (a) a third-class district is annexed to a first-class district or to a second-class district; or

18 (b) a second-class district is annexed to a first-class district.

19  
20 **NEW SECTION. Section 2. District annexation.** (1) As used in this section, the following definitions  
21 apply:

22 (a) "Annexing district" means the district to which another district is being attached through an  
23 annexation procedure.

24 (b) "District to be annexed" means the district that is being attached to another district through an  
25 annexation procedure.

26 (2) A district may be annexed to a contiguous district when one of the conditions of [section 1] is met  
27 in accordance with the following procedure:

28 (a) An annexation proposition may be introduced in the district to be annexed by either of the two  
29 following methods:

30 (i) the trustees may pass a resolution requesting the county superintendent of the county where the

1 district is located to order an election to consider an annexation proposition for their district; or

2 (ii) not less than 20% of the electors of the district who are qualified to vote under the provisions of  
3 20-20-301 may petition the county superintendent of the county where the district is located requesting an  
4 election to consider an annexation proposition for their district.

5 (b) The resolution or petition must state whether the annexation is to be made with or without the joint  
6 assumption of bonded indebtedness of the annexing district by the district to be annexed and the annexing  
7 district.

8 (3) Before ordering an election on the proposition, the county superintendent of the county where the  
9 district to be annexed is located shall first receive from the trustees of the annexing district a resolution giving  
10 the county superintendent the authority to annex the district. The resolution must state whether the annexation  
11 is to be made with or without the joint assumption of bonded indebtedness of the annexing district by the district  
12 to be annexed and the annexing district. The resolution from the annexing district and the resolution or petition  
13 from the district to be annexed must agree on whether or not there will be joint assumption of bonded  
14 indebtedness. Without agreement, the annexation proposition may not be considered further.

15 (4) When the county superintendent of the county where the district to be annexed is located has  
16 received the resolution authorizing the annexation from the annexing district and the resolution or valid petition  
17 from the district to be annexed, the county superintendent shall, within 10 days and as provided by 20-20-201,  
18 order the trustees of the district to be annexed to call an annexation election.

19 (5) The district to be annexed shall call and conduct an election in the manner prescribed in this title  
20 for school elections and subject to subsections (6) and (7). Any elector qualified to vote under the provisions of  
21 20-20-301 may vote.

22 (6) (a) If the district to be annexed is to jointly assume the bonded indebtedness of the annexing district,  
23 the ballots must read, after stating the annexation proposition, "FOR annexation with assumption of bonded  
24 indebtedness" and "AGAINST annexation with assumption of bonded indebtedness".

25 (b) When the trustees in each district conducting an election canvass the vote under the provisions of  
26 20-20-415, they shall decide, according to the following procedures, if the proposition has been approved:

27 (i) determine if a sufficient number of the qualified electors of the district have voted to validate the  
28 election in the same manner required for bond elections by 20-9-428; and

29 (ii) when the proposition is validated under the provisions of subsection (6)(b)(i), determine the number  
30 of votes "FOR" and "AGAINST" the proposition.

(c) If the proposition is validated and approved under the provisions of subsection (6)(b), the proposition is approved in the district.

(7) If the district to be annexed is not to jointly assume the bonded indebtedness of the annexing district, the ballots must read, after stating the annexation proposition, "FOR annexation without the assumption of bonded indebtedness" and "AGAINST annexation without assumption of bonded indebtedness". The annexation proposition is approved by a district if a majority of those voting in a district approve the proposition.

(8) After the county superintendent of the county where the district to be annexed is located has received the election certification provided for in 20-20-416 from the trustees of the district conducting the annexation election and if the annexation proposition has been approved by the election, the county superintendent shall order the annexation of the territory of the district voting on the proposition to the district that has authorized the annexation to its territory effective July 1. The order must be issued within 10 days after the receipt of the election certificate. For annexation with joint assumption of bonded indebtedness, the order must specify that there will be joint assumption of bonded indebtedness between the owners of all taxable real and personal property in the annexed territory and in the annexing district. The county superintendent of the county where the district to be annexed is located shall send a copy of the order to the board of county commissioners of each county involved in the annexation order and to the trustees of the districts involved in the annexation order.

(9) If the annexation proposition is disapproved in the district to be annexed, the annexation proposition fails and the county superintendent of the county where the district to be annexed is located shall notify each district of the disapproval of the annexation proposition.

**NEW SECTION. Section 3. District consolidation.** (1) Any two or more contiguous elementary school districts may consolidate to organize an elementary district. Any two or more contiguous high school districts may be consolidated to organize a high school district. Any two or more contiguous K-12 school districts may be consolidated to organize a K-12 school district. The consolidation must be conducted as provided in this section.

(2) (a) A consolidation proposition may be introduced, individually, in each of the districts by either of the two following methods:

(i) the trustees may pass a resolution requesting the county superintendent of the county where the district is located to order an election to consider a consolidation proposition involving their district; or

(ii) not less than 20% of the electors of an individual district who are qualified to vote under the

1 provisions of 20-20-301 may petition the county superintendent of the county where the district is located  
2 requesting an election to consider a consolidation proposition involving their district.

3 (b) The resolution or petition must state whether the consolidation is to be made with or without the joint  
4 assumption of the bonded indebtedness of each district by all districts included in the consolidation. The  
5 resolution or petition from each district must agree on whether or not there will be joint assumption of bonded  
6 indebtedness. Without agreement, the consolidation proposition may not be considered further.

7 (3) When a county superintendent has received a resolution or a valid petition from each of the districts  
8 included in the consolidation proposition, the county superintendent shall, within 10 days after the receipt of the  
9 last resolution or petition and as provided by 20-20-201, order the trustees of each district included in the  
10 consolidation proposition to call a consolidation election to be held no later than December 31 preceding the  
11 school year in which the consolidation is to become effective. If the districts involved in the consolidation  
12 proposition are located in more than one county, the county superintendents in both counties shall jointly order  
13 the district to call a consolidation election.

14 (4) Each district, individually, shall call and conduct an election in the manner prescribed in this title for  
15 school elections and subject to additional requirements of subsections (5) and (6). Any elector qualified to vote  
16 under the provisions of 20-20-301 may vote.

17 (5) (a) If the districts to be consolidated are to jointly assume the bonded indebtedness of each district  
18 involved in the consolidation, the ballots must read, after stating the consolidation proposition, "FOR  
19 consolidation with assumption of bonded indebtedness" and "AGAINST consolidation with assumption of bonded  
20 indebtedness".

21 (b) When the trustees in each district conducting an election canvass the vote under the provisions of  
22 20-20-415, they shall decide, according to the following procedure, if the proposition has been approved:

23 (i) determine if a sufficient number of the qualified electors of the district have voted to validate the  
24 election in the same manner required for bond elections by 20-9-428; and

25 (ii) when the proposition is validated under the provisions of subsection (5)(b)(i), determine the number  
26 of votes "FOR" and "AGAINST" the proposition.

27 (c) If the proposition is validated and approved under subsection (5)(b), the proposition is approved in  
28 the district.

29 (6) If the districts to be consolidated are not to jointly assume the bonded indebtedness of each district  
30 involved in the consolidation, the ballots must read, after stating the consolidation proposition, "FOR

consolidation without assumption of bonded indebtedness" and "AGAINST consolidation without assumption of bonded indebtedness". The consolidation proposition is approved by a district if a majority of those voting in a district approve the proposition. Otherwise, it is disapproved.

(7) (a) After the county superintendent of each county where a district involved in the consolidation proposition is located has received the election certification provided for in 20-20-416 from the trustees of each district included in a consolidation proposition, the appropriate county superintendent shall determine if the consolidation proposition has been approved in each district. If each district has approved the consolidation proposition, each county superintendent shall, within 10 days after the receipt of the last election certificate, order the consolidation of the districts effective July 1 of the ensuing school fiscal year. The order must:

(i) for consolidation with the joint assumption of bonded indebtedness, specify that there will be joint assumption of bonded indebtedness between the owners of all taxable real and personal property in each district forming the consolidated district;

(ii) specify the number of the consolidated district; and

(iii) establish an interim board of trustees for the consolidated district as provided in [section 4]. The trustees shall serve until their successors are elected at the next succeeding regular school election and qualified.

(b) Each county superintendent shall send a copy of the order to the board of county commissioners of each county where a district involved in the consolidation proposition is located and to the trustees of each district incorporated in the consolidation order.

(8) If any district included in the consolidation proposition disapproves the consolidation proposition, the consolidation of all districts fails and the appropriate county superintendent shall notify each district of the disapproval of the consolidation proposition.

**NEW SECTION. Section 4. Interim governance of consolidated district.** (1) Upon passage of a consolidation proposition under the provisions of [section 3], an interim board of trustees made up of all of the members of the boards of trustees of the districts that consolidated shall serve as the trustees for the consolidated district from the date of the consolidation order until the newly elected board of the consolidated district is organized under 20-3-321. The interim board of trustees shall elect a presiding officer from among its members.

(2) The trustees of each district incorporated in the consolidation order shall continue to perform those

1 duties related to the operation of their individual districts until the effective date of the consolidation. The interim  
2 board of trustees shall perform those duties related to the formation of and transition to the consolidated district,  
3 including but not limited to:

4 (a) calling an election of the new board of trustees for the consolidated district to be held on the regular  
5 election day preceding the effective date of the consolidation; and

6 (b) if necessary, calling an election under 20-9-353 for the ensuing budget year of the consolidated  
7 district.

8 (3) At the next regular school election following the consolidation election, trustees for the consolidated  
9 district must be elected in accordance with the election provisions of Title 13 and Title 20. The term of office is  
10 3 years, except that the initial terms of the newly elected trustees must be selected by lot in order to comply with  
11 the provisions of 20-3-302.

12 (4) The interim board of trustees must be dissolved upon the organization of the newly elected trustees  
13 pursuant to 20-3-321.

14  
15 **Section 5.** Section 20-3-205, MCA, is amended to read:

16 **"20-3-205. Powers and duties.** (1) The county superintendent has general supervision of the schools  
17 of the county within the limitations prescribed by this title and shall perform the following duties or acts:

18 ~~(1)~~(a) determine, establish, and reestablish trustee nominating districts in accordance with the  
19 provisions of 20-3-352, 20-3-353, and 20-3-354;

20 ~~(2)~~(b) administer and file the oaths of members of the boards of trustees of the districts in the county  
21 in accordance with the provisions of 20-3-307;

22 ~~(3)~~(c) register the teacher or specialist certificates or emergency authorization of employment of any  
23 person employed in the county as a teacher, specialist, principal, or district superintendent in accordance with  
24 the provisions of 20-4-202;

25 ~~(4)~~(d) act on each tuition and transportation obligation submitted in accordance with the provisions of  
26 20-5-323 and 20-5-324;

27 ~~(5)~~(e) file a copy of the audit report for a district in accordance with the provisions of 20-9-203;

28 ~~(6)~~(f) classify districts in accordance with the provisions of 20-6-201 and 20-6-301;

29 ~~(7)~~(g) keep a transcript of the district boundaries of the county;

30 ~~(8)~~(h) fulfill all responsibilities assigned under the provisions of this title regulating the organization,

1 alteration, or abandonment of districts;

2 ~~(9)~~(j) act on any unification proposition and, if approved, establish additional trustee nominating districts  
3 in accordance with 20-6-312 and 20-6-313;

4 ~~(10)~~(j) estimate the average number belonging (ANB) of an opening school in accordance with the  
5 provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

6 ~~(11)~~(k) process and, when required, act on school isolation applications in accordance with the  
7 provisions of 20-9-302;

8 ~~(12)~~(l) complete the budgets, compute the budgeted revenue and tax levies, file final budgets and  
9 budget amendments, and fulfill other responsibilities assigned under the provisions of this title regulating school  
10 budgeting systems;

11 ~~(13)~~(m) submit an annual financial report to the superintendent of public instruction in accordance with  
12 the provisions of 20-9-211;

13 ~~(14)~~(n) monthly, unless otherwise provided by law, order the county treasurer to apportion state money,  
14 county school money, and any other school money subject to apportionment in accordance with the provisions  
15 of 20-9-212, 20-9-347, 20-10-145, or 20-10-146;

16 ~~(15)~~(o) act on any request to transfer average number belonging (ANB) in accordance with the  
17 provisions of 20-9-313(3);

18 ~~(16)~~(p) calculate the estimated budgeted general fund sources of revenue in accordance with the  
19 general fund revenue provisions of the general fund part of this title;

20 ~~(17)~~(q) compute the revenue and compute the district and county levy requirements for each fund  
21 included in each district's final budget and report the computations to the board of county commissioners in  
22 accordance with the provisions of the general fund, transportation, bonds, and other school funds parts of this  
23 title;

24 ~~(18)~~(r) file and forward bus driver certifications, transportation contracts, and state transportation  
25 reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143, or 20-10-145;

26 ~~(19)~~(s) for districts that do not employ a district superintendent or principal, recommend library book and  
27 textbook selections in accordance with the provisions of 20-7-204 or 20-7-602;

28 ~~(20)~~(t) notify the superintendent of public instruction of a textbook dealer's activities when required under  
29 the provisions of 20-7-605 and otherwise comply with the textbook dealer provisions of this title;

30 ~~(24)~~(u) act on district requests to allocate federal money for indigent children for school food services



1 in accordance with the provisions of 20-10-205;

2 ~~(22)~~(v) perform any other duty prescribed from time to time by this title, any other act of the legislature,  
3 the policies of the board of public education, the policies of the board of regents relating to community college  
4 districts, or the rules of the superintendent of public instruction;

5 ~~(23)~~(w) administer the oath of office to trustees without the receipt of pay for administering the oath;

6 ~~(24)~~(x) keep a record of official acts, preserve all reports submitted to the superintendent under the  
7 provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable  
8 to the administration of the office, and surrender all records, books, supplies, and equipment to the next  
9 superintendent;

10 ~~(25)~~(y) within 90 days after the close of the school fiscal year, publish an annual report in the county  
11 newspaper stating the following financial information for the school fiscal year just ended for each district of the  
12 county:

13 ~~(a)~~(i) the total of the cash balances of all funds maintained by the district at the beginning of the year;

14 ~~(b)~~(ii) the total receipts that were realized in each fund maintained by the district;

15 ~~(c)~~(iii) the total expenditures that were made from each fund maintained by the district; and

16 ~~(d)~~(iv) the total of the cash balances of all funds maintained by the district at the end of the school fiscal  
17 year; and

18 ~~(26)~~(z) hold meetings for the members of the trustees from time to time at which matters for the good  
19 of the districts must be discussed.

20 (2) (a) When a district in one county annexes a district in another county, the county superintendent of  
21 the county where the annexing district is located shall perform the duties required by this section.

22 (b) When two or more districts in more than one county consolidate, the duties required by this section  
23 must be performed by the county superintendent designated in the same manner as other county officials in  
24 20-9-202."

25  
26 **Section 6.** Section 20-3-302, MCA, is amended to read:

27 **"20-3-302. Legislative intent to elect less than majority of trustees.** (1) It is the intention of the  
28 legislature that the terms of a majority of the trustee positions of any district with elected trustees may not  
29 regularly expire and be subject to election on the same regular school election day. In elementary districts, there  
30 may not be more than three trustee positions in first-class districts, two trustee positions in second-class districts

or third-class districts having five trustee positions, or one trustee position in third-class districts having three trustee positions regularly subject to election at the same time. In high school districts there may not be more than two additional trustee positions in first- or second-class districts or more than one in third-class districts regularly subject to election at the same time. In county high school districts, there may not be more than two trustee positions to be filled by members residing in the elementary district where the county high school building is located or more than one trustee position to be filled by members residing outside of the elementary district where the county high school building is located subject to election at the same time.

(2) In the following circumstances relating to newly created trustee positions, the initial terms may be shortened to comply with the intent of subsection (1):

(a) the consolidation, under the provisions of [section 3], of two or more elementary districts to form an elementary district, under the provisions of 20-6-203 or the consolidation of two or more high school districts to form a high school district under the provisions of 20-6-315, or of two or more K-12 districts to form a K-12 district;

(b) the establishment of additional trustee positions of a high school district under the provisions of 20-3-353 or 20-3-354 or new trustee positions under the provisions of 20-3-352(3);

(c) the change of a district's classification under the provisions of 20-6-201 or 20-6-301;

(d) the establishment of additional elementary trustee positions under the provisions of 20-3-341(3);

or

(e) the establishment of additional high school trustee positions under the provisions of 20-6-313.

(3) If the change of a district's classification under 20-6-201 or 20-6-301 decreases the number of trustee positions, the positions must be eliminated in a manner that complies with the intent of subsection (1).

(4) Although the legislature intends that the terms of a majority of trustees of any district may not regularly expire and be subject to election at the same time, it is recognized that filling a vacancy under 20-3-308 may lead to a subsequent school election in which a majority of trustee positions are subject to election at the same time."

**Section 7.** Section 20-3-312, MCA, is amended to read:

**"20-3-312. Trustees of district affected by boundary change.** The trustees of any district to which the territory of another district is attached as a result of annexation, abandonment, ~~joint district dissolution,~~ territory transfer, or any other method of changing district boundaries, except by the consolidation of elementary

1 districts, ~~shall~~ continue to be the trustees of the district with the same powers, duties, and responsibilities and  
2 subject to the same limitations provided by law as if there had been no boundary change. In the case of  
3 elementary district consolidation, the appointed trustees of the resulting elementary district shall assume their  
4 trustee positions under the authority of ~~20-6-203~~ [section 3]."

5  
6 **Section 8.** Section 20-6-209, MCA, is amended to read:

7 **"20-6-209. Elementary district abandonment.** (1) The county superintendent shall declare an  
8 elementary district to be abandoned and order the attachment of the territory of the district to a contiguous district  
9 or districts of the county or, with the consent of the county superintendent of an adjacent county, to a contiguous  
10 district or districts in the adjacent county when:

11 (a) a school has not been operated by a district for at least 180 days under the provisions of 20-1-301  
12 for each of 3 consecutive school fiscal years or a lesser number of days as approved by the board of trustees  
13 under the provisions of 20-9-806; or

14 (b) there is an insufficient number of residents who are qualified electors of the district that can serve  
15 as the trustees and clerk of the district so that a legal board of trustees can be organized.

16 (2) The county superintendent shall notify the elementary district that has not operated a school for 2  
17 consecutive years before the first day of the third year that the failure to operate a school for 180 days or a lesser  
18 number of days than approved by the board of trustees under the provisions of 20-9-806 during the ensuing  
19 school fiscal year constitutes grounds for abandonment of the district at the conclusion of the succeeding school  
20 fiscal year. Failure by the county superintendent to provide the notification does not constitute a waiver of the  
21 abandonment requirement prescribed in subsection (1)(a).

22 (3) Any abandonment under subsection (1)(a) becomes effective on July 1. Any abandonment of an  
23 elementary district under subsection (1)(b) becomes effective immediately on the date of the abandonment  
24 order."

25  
26 **Section 9.** Section 20-6-307, MCA, is amended to read:

27 **"20-6-307. High school district abandonment.** Within 6 months after a high school district fails to  
28 operate an accredited high school within its boundaries for a period of 1 year, the county superintendent shall  
29 order the high school district abandoned. At least 20 days before issuing an abandonment order, the county  
30 superintendent shall notify the trustees of the high school district of the impending abandonment. When the

order is issued, the county superintendent shall also order the attachment of the territory of each elementary district of the abandoned high school district to another high school district or districts of the county or, with the consent of the county superintendent of an adjacent county, to another contiguous high school district or districts in the adjacent county."

**Section 10.** Section 20-6-704, MCA, is amended to read:

**"20-6-704. Dissolution of K-12 school district.** (1) Except as provided in subsection (2), in order to dissolve a K-12 district under the provisions of this section, the trustees of a district shall submit for approval to the electors of the K-12 district a proposition dissolving the K-12 district for the purpose of annexing or consolidating the K-12 district's elementary or high school program with ~~an adjacent~~ a contiguous school district or districts in an ensuing school fiscal year under the provisions of ~~20-6-203 through 20-6-208 or 20-6-315 through 20-6-319~~ [section 2 or 3].

(2) If the trustees of the school district determine that the creation or continuation of the K-12 district has resulted in or will result in the loss of federal funding for the elementary or high school programs and that it is in the best interest of the district to dissolve into the original elementary district and high school district that existed prior to the formation of the K-12 district, the trustees may dissolve the district under the following procedure:

(a) The trustees of the district shall pass a resolution requesting the county superintendent to order a dissolution of the district.

(b) When the county superintendent receives the resolution from the district, the county superintendent shall, within 10 days, order the dissolution of the K-12 district into the original elementary district and high school district, to take effect on July 1 of the ensuing school fiscal year. Within 30 days of the order, the county superintendent shall send a copy of the order to the board of county commissioners, the trustees of the district, and the superintendent of public instruction.

(3) If the entire territory of the dissolving K-12 district will be annexed to or consolidated with ~~an adjacent~~ a contiguous district or districts, the resolution or petition required in subsection (1) or (2) must contain a description of the manner in which the real and personal property and funds of the district are to be apportioned in the dissolution of the district and the subsequent annexation to or consolidation with one or more other districts. If a portion of the dissolving K-12 district will not be annexed or consolidated with another district or districts, the resolution or petition must contain a description of the manner in which the property, funds, and

1 financial obligations, including bonded indebtedness, of the K-12 district are to be apportioned to the district or  
2 districts whose territory is not ~~consolidated or~~ annexed to or consolidated with another district.

3 (4) After the county superintendent receives the certificate of election provided for in 20-20-416 from  
4 the trustees of the K-12 district and from each district included in a consolidation proposition, the county  
5 superintendent shall determine whether the dissolution and annexation or consolidation proposition or  
6 propositions have been approved. If the K-12 district has approved the dissolution proposition and each district  
7 involved in a consolidation has approved the consolidation proposition, the county superintendent shall, within  
8 10 days after the receipt of the election certificate, order the dissolution of the K-12 district into the original  
9 elementary district and high school district, to take effect on July 1 of the ensuing school fiscal year. Within 30  
10 days of the order, the county superintendent shall send a copy of the dissolution order to the board of county  
11 commissioners, the trustees of the district included in the dissolution order, and the superintendent of public  
12 instruction.

13 (5) Whenever a K-12 district is dissolved, the following provisions apply:

14 (a) The trustees of the elementary district whose territory is not annexed or consolidated upon  
15 dissolution of the K-12 district are responsible for the execution of remaining financial obligations of the K-12  
16 district and for the apportionment between the elementary and high school programs of any obligations not  
17 identified in the resolution required under subsection (3).

18 (b) The provisions of 20-6-410 apply for tenure teachers in the dissolution of a K-12 district.

19 (c) For purposes of applying the budget limitation provisions of 20-9-308, the budget of a K-12 district  
20 during its last year of operations as a K-12 district will be prorated based on rules promulgated by the  
21 superintendent of public instruction."

22  
23 **Section 11.** Section 20-9-311, MCA, is amended to read:

24 **"20-9-311. Calculation of average number belonging (ANB).** (1) Average number belonging (ANB)  
25 must be computed as follows:

26 (a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were  
27 enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils  
28 on February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day,  
29 and divide the sum by two; and

30 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of the pupil-instruction

1 and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

2 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related  
3 days may be included in the calculation.

4 (3) When a school district has approval to operate less than 180 school days under 20-9-806, the total  
5 ANB must be calculated in accordance with the provisions of 20-9-805.

6 (4) Enrollment for a part of a morning session or a part of an afternoon session by a pupil must be  
7 counted as enrollment for one-half day.

8 (5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment  
9 at a regular session of the program for at least 2 hours of either a morning or an afternoon session must be  
10 counted as one-half pupil for ANB purposes. The ANB for a kindergarten student may not exceed one-half for  
11 each kindergarten pupil.

12 (6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days,  
13 the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil  
14 resumes attendance prior to the day of the enrollment count.

15 (7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB  
16 calculations.

17 (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a  
18 district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the  
19 district, except that when:

20 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or  
21 town located in the district and at least 20 miles from any other school of the district, the number of regularly  
22 enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must  
23 receive a basic entitlement for the school calculated separately from the other schools of the district;

24 (ii) a school of the district is located more than 20 miles from any other school of the district and  
25 incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school  
26 must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school  
27 calculated separately from the other schools of the district;

28 (iii) the superintendent of public instruction approves an application not to aggregate when conditions  
29 exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any  
30 other condition exists that would result in an unusual hardship to the pupils of the school if they were transported

1 to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately  
2 for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the  
3 other schools of the district; or

4 (iv) two or more elementary districts consolidate or annex under the provisions of ~~20-6-203, 20-6-205,~~  
5 ~~or 20-6-208, two or more high school districts consolidate or annex under the provisions of 20-6-315 or 20-6-317,~~  
6 ~~or two or more K-12 districts consolidate or annex under Title 20, chapter 6, part 4 [section 2 or 3],~~ the ANB and  
7 the basic entitlements of the component districts must be calculated separately for a period of 3 years following  
8 the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional  
9 years as follows:

10 (A) 75% of the basic entitlement for the fourth year;

11 (B) 50% of the basic entitlement for the fifth year; and

12 (C) 25% of the basic entitlement for the sixth year.

13 (b) a junior high school has been approved and accredited as a junior high school, all of the regularly  
14 enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB  
15 purposes;

16 (c) a middle school has been approved and accredited, all pupils below the 7th grade must be  
17 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered  
18 high school pupils for ANB purposes; or

19 (d) a school has not been accredited by the board of public education, the regularly enrolled, full-time  
20 pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes,  
21 nor will an average number belonging for the nonaccredited school be used in determining the BASE funding  
22 program for the district.

23 (9) The district shall provide the superintendent of public instruction with semiannual reports of school  
24 attendance, absence, and enrollment for regularly enrolled students, using a format determined by the  
25 superintendent."

26  
27 **NEW SECTION. Section 12. Repealer.** Sections 20-6-203, 20-6-204, 20-6-205, 20-6-206, 20-6-207,  
28 20-6-208, 20-6-210, 20-6-211, 20-6-315, 20-6-316, 20-6-317, 20-6-318, 20-6-319, and 20-6-321, MCA, are  
29 repealed.

1        NEW SECTION. Section 13. Codification instruction. [Sections 1 through 4] are intended to be  
2 codified as an integral part of Title 20, chapter 6, part 4, and the provisions of Title 20, chapter 6, part 4, apply  
3 to [sections 1 through 4].

4  
5        COORDINATION SECTION. SECTION 14. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 574 AND [THIS  
6 ACT] ARE BOTH PASSED AND APPROVED, THEN [SECTIONS 2 AND 3] OF [THIS ACT] MUST READ AS FOLLOWS:

7        "NEW SECTION. Section 2. District annexation. (1) As used in this section, the following definitions  
8 apply:

9        (a) "Annexing district" means the district to which another district is being attached through an  
10 annexation procedure.

11        (b) "District to be annexed" means the district that is being attached to another district through an  
12 annexation procedure.

13        (2) A district may be annexed to a contiguous district when one of the conditions of [section 1] is met  
14 in accordance with the following procedure:

15        (a) An annexation proposition may be introduced in the district to be annexed by either of the two  
16 following methods:

17        (i) the trustees may pass a resolution requesting the county superintendent of the county where the  
18 district is located to order an election to consider an annexation proposition for their district; or

19        (ii) not less than 20% of the electors of the district who are qualified to vote under the provisions of  
20 20-20-301 may petition the county superintendent of the county where the district is located requesting an  
21 election to consider an annexation proposition for their district.

22        (b) The resolution or petition must state whether the annexation is to be made with or without the joint  
23 assumption of bonded indebtedness of the annexing district by the district to be annexed and the annexing  
24 district.

25        (3) Before ordering an election on the proposition, the county superintendent of the county where the  
26 district to be annexed is located shall first receive from the trustees of the annexing district a resolution giving  
27 the county superintendent the authority to annex the district. The resolution must state whether the annexation  
28 is to be made with or without the joint assumption of bonded indebtedness of the annexing district by the district  
29 to be annexed and the annexing district. The resolution from the annexing district and the resolution or petition  
30 from the district to be annexed must agree on whether or not there will be joint assumption of bonded



1 indebtedness. Without agreement, the annexation proposition may not be considered further.

2 (4) When the county superintendent of the county where the district to be annexed is located has  
3 received the resolution authorizing the annexation from the annexing district and the resolution or valid petition  
4 from the district to be annexed, the county superintendent shall, within 10 days and as provided by 20-20-201,  
5 order the trustees of the district to be annexed to call an annexation election.

6 (5) The district to be annexed shall call and conduct an election in the manner prescribed in this title for  
7 school elections and subject to subsections (6) and (7). Any elector qualified to vote under the provisions of  
8 20-20-301 may vote.

9 (6) (a) If the district to be annexed is to jointly assume the bonded indebtedness of the annexing district,  
10 the ballots must read, after stating the annexation proposition, "FOR annexation with assumption of bonded  
11 indebtedness" and "AGAINST annexation with assumption of bonded indebtedness".

12 (b) When the trustees in each district conducting an election canvass the vote under the provisions of  
13 20-20-415, they shall determine the number of votes "FOR" and "AGAINST" the proposition.

14 (c) The proposition is approved in the district if a majority of those voting approve the proposition.

15 (7) If the district to be annexed is not to jointly assume the bonded indebtedness of the annexing district,  
16 the ballots must read, after stating the annexation proposition, "FOR annexation without assumption of bonded  
17 indebtedness" and "AGAINST annexation without assumption of bonded indebtedness". The annexation  
18 proposition is approved by a district if a majority of those voting in a district approve the proposition.

19 (8) After the county superintendent of the county where the district to be annexed is located has received  
20 the election certification provided for in 20-20-416 from the trustees of the district conducting the annexation  
21 election and if the annexation proposition has been approved by the election, the county superintendent shall  
22 order the annexation of the territory of the district voting on the proposition to the district that has authorized the  
23 annexation to its territory effective July 1. The order must be issued within 10 days after the receipt of the  
24 election certificate. For annexation with joint assumption of bonded indebtedness, the order must specify that  
25 there will be joint assumption of bonded indebtedness between the owners of all taxable real and personal  
26 property in the annexed territory and in the annexing district. The county superintendent of the county where the  
27 district to be annexed is located shall send a copy of the order to the board of county commissioners of each  
28 county involved in the annexation order and to the trustees of the districts involved in the annexation order.

29 (9) If the annexation proposition is disapproved in the district to be annexed, the annexation proposition  
30 fails and the county superintendent of the county where the district to be annexed is located shall notify each

1 district of the disapproval of the annexation proposition."

2 **"NEW SECTION. Section 3. District consolidation.** (1) Any two or more contiguous elementary  
3 school districts may consolidate to organize an elementary district. Any two or more contiguous high school  
4 districts may be consolidated to organize a high school district. Any two or more contiguous K-12 school districts  
5 may be consolidated to organize a K-12 school district. The consolidation must be conducted as provided in this  
6 section.

7 (2) (a) A consolidation proposition may be introduced, individually, in each of the districts by either of  
8 the two following methods:

9 (i) the trustees may pass a resolution requesting the county superintendent of the county where the  
10 district is located to order an election to consider a consolidation proposition involving their district; or

11 (ii) not less than 20% of the electors of an individual district who are qualified to vote under the  
12 provisions of 20-20-301 may petition the county superintendent of the county where the district is located  
13 requesting an election to consider a consolidation proposition involving their district.

14 (b) The resolution or petition must state whether the consolidation is to be made with or without the joint  
15 assumption of the bonded indebtedness of each district by all districts included in the consolidation. The  
16 resolution or petition from each district must agree on whether or not there will be joint assumption of bonded  
17 indebtedness. Without agreement, the consolidation proposition may not be considered further.

18 (3) When a county superintendent has received a resolution or a valid petition from each of the districts  
19 included in the consolidation proposition, the county superintendent shall, within 10 days after the receipt of the  
20 last resolution or petition and as provided by 20-20-201, order the trustees of each district included in the  
21 consolidation proposition to call a consolidation election to be held no later than December 31 preceding the  
22 school year in which the consolidation is to become effective. If the districts involved in the consolidation  
23 proposition are located in more than one county, the county superintendents in both counties shall jointly order  
24 the district to call a consolidation election.

25 (4) Each district, individually, shall call and conduct an election in the manner prescribed in this title for  
26 school elections and subject to additional requirements of subsections (5) and (6). Any elector qualified to vote  
27 under the provisions of 20-20-301 may vote.

28 (5) (a) If the districts to be consolidated are to jointly assume the bonded indebtedness of each district  
29 involved in the consolidation, the ballots must read, after stating the consolidation proposition, "FOR  
30 consolidation with assumption of bonded indebtedness" and "AGAINST consolidation with assumption of bonded

1 indebtedness".

2 (b) When the trustees in each district conducting an election canvass the vote under the provisions of  
3 20-20-415, they shall determine the number of votes "FOR" and "AGAINST" the proposition.

4 (c) The proposition is approved in the district if a majority of those voting approve the proposition.

5 (6) If the districts to be consolidated are not to jointly assume the bonded indebtedness of each district  
6 involved in the consolidation, the ballots must read, after stating the consolidation proposition, "FOR  
7 consolidation without assumption of bonded indebtedness" and "AGAINST consolidation without assumption  
8 of bonded indebtedness". The consolidation proposition is approved by a district if a majority of those voting in  
9 a district approve the proposition. Otherwise it is disapproved.

10 (7) (a) After the county superintendent of each county where a district involved in the consolidation  
11 proposition is located has received the election certification provided for in 20-20-416 from the trustees of each  
12 district included in a consolidation proposition, the appropriate county superintendent shall determine if the  
13 consolidation proposition has been approved in each district. If each district has approved the consolidation  
14 proposition, each county superintendent shall, within 10 days after the receipt of the last election certificate, order  
15 the consolidation of the districts effective July 1 of the ensuing school fiscal year. The order must:

16 (i) for consolidation with the joint assumption of bonded indebtedness, specify that there will be joint  
17 assumption of bonded indebtedness between the owners of all taxable real and personal property in each district  
18 forming the consolidated district;

19 (ii) specify the number of the consolidated district; and

20 (iii) establish an interim board of trustees for the consolidated district as provided in [section 4]. The  
21 trustees shall serve until their successors are elected at the next succeeding regular school election and  
22 qualified.

23 (b) Each county superintendent shall send a copy of the order to the board of county commissioners of  
24 each county where a district involved in the consolidation proposition is located and to the trustees of each  
25 district incorporated in the consolidation order.

26 (8) If any district included in the consolidation proposition disapproves the consolidation proposition, the  
27 consolidation of all districts fails and the appropriate county superintendent shall notify each district of the  
28 disapproval of the consolidation proposition."

29  
30 **NEW SECTION. Section 15. Effective date.** [This act] is effective July 1, 2005.

31 - END -